

In re Application of: LEWIN A.S. et al.
Confirmation No: 6548
Application No.: 10/808,042
Examiner: SCHULTZ, J.

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REMARKS

Claims 1-23 are pending in the application. Claims 1, and 7-9 have been amended to comply with the restriction requirement. Claims 4-6, 10 12,13 and 16-22 have been withdrawn as being directed to non-elected subject matter. The elected claims set forth, herein, are merely to comply with the Restriction Requirement and is not to be construed as surrender of any subject matter in the instant application. Applicants hereby reserve the right to pursue the subject matter of the canceled claims in one or more divisional patent applications.

Restriction Requirement

In the above-identified Office Action, the examiner set forth a restriction requirement and required election of one of the following groups under 35 U.S.C. § 121:

Group I: Claim(s) 1-15, drawn to a ribozyme that specifically cleaves a target RNA sequence encoded by a HSV gene, classified in class 536, subclass 24.5. Election of this group requires the further election of a single target gene selected from the group consisting of UL20, UL30, UL54, and ICP4, a single ribozyme which corresponds to the elected gene selected from the group consisting of SEQ ID NOS: 1, 3, 5, and 6. These are not species elections.

Group II: Claim(s) 16-22, drawn to methods for impairing HSV replication in a cell, comprising the step of expressing in the cell a ribozyme that specifically cleaves a target RNA sequence encoded by a HSV gene, classified in class 435, subclass 6. Election of this group requires the further election of a single target gene selected from the group consisting of UL20, UL30, UL54, and ICP4, and a single ribozyme which corresponds to the elected gene selected from the group consisting of SEQ ID NOS: 1, 3, 5, and 6. These are not species elections.

In response, Applicants elect Group I: Claim(s) 1-15, drawn to a ribozyme that specifically cleaves a target RNA sequence encoded by a HSV gene, classified in class 536, subclass 24.5.

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Group I has been further restricted to an election of a single target gene. In response Applicants elect UL20.

Group I has also been restricted to an election of a single ribozyme. In response Applicants elect SEQ ID NO: 3 (UL20R2154).

This election is made without traverse.

The elected claims set forth, herein, are merely to comply with the Restriction Requirement and is not to be construed as surrender of any subject matter in the instant application. Applicants hereby reserve the right to pursue the subject matter of the canceled claims in one or more divisional patent applications. Applicants invite the Examiner to call the undersigned if it is believed that the above restriction election is incomplete or improper in any way, or if a telephonic interview will expedite the prosecution of the application to an allowance.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

CONCLUSION

In view of the foregoing, reconsideration and withdrawal of all rejections and allowance of the application is respectfully solicited. If there are any remaining issues or the Examiner believes that a telephone conversation with the Applicants' attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at telephone number shown below. This response is accompanied by a petition for a one month retroactive extension of time and the required fee. The Commissioner for Patents and Trademarks is hereby authorized to charge the amount due for any retroactive extension of time

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and any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing, or during prosecution of this application to Deposit Account No. 50-0951.

Respectfully submitted,
AKERMAN SENTERFITT

Date: October 12, 2006



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